

Remarks

Reconsideration of this application is respectfully requested.

The specification has been amended to correct a typographical error in the last paragraph on page 4. The word "member" was inadvertently omitted after tubular in line 21. The replacement paragraph which follows corrects this error.

Independent claim 1 has been amended to recite that the "brace extends between the first and second lugs". This amendment finds clear support in FIG. 8 of the application as originally filed. FIG. 8 shows any one of braces 44a, 44b, 44c, and 44d extending between first and second lugs as laterally extending from respective first and second tubular members. New dependent claim 16 depends upon claim 1 and recites that the brace has a longitudinal axis extending between the opposing ends. This subject matter finds clear support in FIG. 6, which shows brace 44 having a longitudinal axis 45 which extends between opposing ends 48 and 50. Claim 2 has been canceled and rewritten as new independent claim 17. Claim 3 has accordingly been amended to depend upon claim 17 instead of canceled claim 2. The word "means" has been deleted after "connector" in claim 6 in order to be consistent with language in claim 5. Typographical errors have been corrected in claim 8. Claims 13 and 14 have been canceled and rewritten as new independent claim 18. Claim 15 has been amended to depend upon claim 18 rather than canceled 14.

Claims 1, 12, and 13 have been rejected under 35 U.S.C. 102(b) as being anticipated by Emerton et al. This rejection is moot with respect to canceled claim 13.

Claim 1 first distinguishes over Emerton et al. by reciting a brace having opposing ends. The examiner considers the claimed brace to be comprised by left and right brace members 11 in Emerton et al., and that the claimed opposing ends of the brace are also the left and right brace members. It is not clear how the brace members can comprise the entire brace as well as its ends at the same time. Moreover, a brace having

opposing ends necessarily means that the body of the brace extends between its ends. Since the left and right brace members in Emerton et al. are entirely separate without anything extending between them, the left and right brace members cannot reasonably be interpreted to be the claimed brace having opposing ends.

Claim 1 further distinguishes over Emerton et al. by reciting a first connection means for removably connecting one end of the brace to the first lug, and a second connection means for removably connecting the other end of the brace to the second lug. Even if one assumes purely for the sake of argument that the brace members 11 comprise the claimed brace, Emerton et al. shows in FIG. 3 one of lugs 10 that is received in but in no way connected to tubular brace member 11. Certainly, Emerton et al. discloses no separate element, or means, for connecting lugs 10 to left and right brace members 11.

Even though claim 1 as originally filed is believed to patentably distinguish over Emerton et al., claim 1 has been amended to recite that the brace *extends between* the first and second lugs to even more clearly distinguish over Emerton et al. It is clear from FIG. 1 of Emerton et al. and such FIGURE as reprinted with annotations in the Office Action that neither one of or the combination of the left and right brace members 11 extend between first and second lugs 10.

Assembly and installation of the various components in claim 1 is quick and easy. No time consuming post hole digging is required when using fence posts of the type that are driven into the ground (i.e. T-posts). The first and second tubular members are simply placed over respective fence posts, and the connection means are employed to removably connect the opposing ends of the brace to the first and second lugs which laterally extend from the tubular members. In the resulting fence assembly, the brace extends between the first and second lugs as associated with the first and second tubular members. The claimed brace is shown, for example, with respect to any one of braces 44a, 44b, 44c, or 44d in FIG. 8 of the application.

Before addressing rejected claim 12, it is believed appropriate at this point to consider new dependent claim 16, which depends upon claim 1. Claim 16 even further distinguishes over Emerton et al. by reciting that the brace has a longitudinal axis extending between the opposing ends. If left and right brace members 11 comprise the claimed brace as maintained by the examiner, the brace members have separate longitudinal axes that are at an angle to one another. Therefore, the left and right brace members considered together do not and could not have a longitudinal axis extending between opposing ends of the brace as claimed.

Unless indicated otherwise in the following discussion of claim 12, references to elements in Emerton et al. are made with respect to FIG. 1 and/or FIG. 1 as reprinted in the Office Action with annotations.

Claim 12 distinguishes over Emerton et al. by reciting a first sleeve rotatably connected to the tubular member so as to be rotatable about but not movable along the longitudinal axis of the tubular member. The examiner refers to B in reprinted FIG. 1 of Emerton et al. as the claimed first sleeve. If eyebolt 5 is tightened against the tubular member 1, sleeve B could certainly not rotate about the longitudinal axis of the tubular member. Even if the eyebolt was loosened slightly, while still retaining the wire in clamping-lip 6 (FIG. 2 of Emerton et al.) to prevent longitudinal movement of sleeve B as required by claim 12, the wire as received by clamping-lip 6 would prevent rotation of sleeve B. If eyebolt 5 were loosened sufficiently to disengage the wire from clamping-lip 6, sleeve B could rotate but would also be movable along the longitudinal axis of the tubular member, contrary to the recitation of claim 12.

The examiner interprets "B,4,6" as the claimed pair of transversely opposed and apertured first lugs integrally connected to and laterally extending from first sleeve B. However, first "lug" 6 (described above and in Emerton as including a clamping-lip) is not apertured as required by claim 12. As stated on page 4, lines 16-17 of the application, the term "apertured" as applied to any member (i.e. lug) means that the member

has at least one aperture. The FIGURES of Emerton et al., particularly FIGS. 2 and 5, clearly show that first lug 6 has no aperture.

The examiner considers C to be the claimed second sleeve and C,4,6 as the pair of claimed apertured second lugs. The deficiencies of sleeve C and its lug 6 are the same as those discussed above with respect to sleeve B and its lug 6.

The examiner further considers D,4,6 to be the claimed pair of apertured third lugs. As per the above discussion, lug 6 is not apertured as required by claim 12. Furthermore, third lugs D,4,6 are not adjacent to first sleeve B, as is also required by claim 12. This is clearly apparent from the reprinted FIG. 1. Claim 12 further distinguishes over Emerton et al. by reciting that the third lugs are more closely adjacent to the first end than the second end of the tubular member. The examiner's interpretation of Emerton et al. deems the upper end of tubular member 1 as the first end and the lower end as the second end. The reprinted FIG. 1 illustrates the third lugs D,4,6 as being more closely adjacent to the lower (second) end than the upper (first) end, which is completely contrary to the recitations of claim 12.

As to the claimed fourth lugs, neither FIG. 1 of Emerton et al. or reprinted FIG. 1 shows any fourth lugs. The examiner relies on a statement on page 1, lines 57-60 of Emerton et al. in an effort to meet the claimed feature of fourth lugs. Emerton et al. states in this passage that on "each post a plurality of clamps 2 are mounted, the number used depending upon the number of runners in each fence and the height of the post". Clamps have been previously referred to by the examiner as sleeves. Nevertheless, even if it is assumed that the aforementioned passage in Emerton et al. suggests the possibility of a fourth clamp or sleeve and associated fourth lugs, Emerton et al. makes no suggestion whatever of where on the tubular member the fourth lugs would be located. Claim 12 specifically requires that the pair of apertured fourth lugs are adjacent to the second sleeve (C in reprinted FIG. 1) and associated second lugs (C,4,6), the fourth lugs thereby also being more closely

adjacent to the second end (lower end of tubular member 1) than the first end (upper end of tubular member 1).

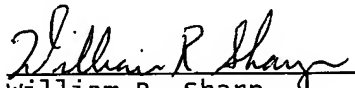
As explained on page 3, lines 5-14 of the application, the tubular member of claim 12, as received over a standard fence post (i.e. T-post), can serve as a corner post, gate post, etc. in the assembly of almost any fencing configuration. The apertured lugs can receive bolts or other fasteners therethrough for connecting braces to the lugs. The rotatable sleeves and associated lugs permit adjustment of the angular relationship between such lugs and those lugs integrally connected to the tubular member, and thereby also between braces connected to the corresponding lugs. A combination of components as recited in claim 12 is illustrated in FIG. 1 as well as FIGS. 2 and 3 of the application, wherein the illustrated combination includes a tubular member 10, a rotatable first sleeve 20, a pair of apertured first lugs 22 integrally connected to first sleeve 20, a rotatable second sleeve 26, a pair of apertured second lugs 30 integrally connected to second sleeve 26, a pair of apertured third lugs 14 integrally connected to tubular member 10, and a pair of apertured fourth lugs 28 integrally connected to tubular member 10.

Claims 2-11, 14, and 15 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 has been rewritten in independent form as new claim 17, including all limitations of base claim 1 as originally filed. Claim 17, as well as claims 3-11 directly or indirectly dependent thereon, are therefore allowable. Claim 14 has been rewritten in independent form as new claim 18, including all limitations of base claim 12 and intervening claim 13. Claim 18, as well as claim 15 dependent thereon, are therefore also allowable.

In view of the foregoing amendments and remarks, withdrawal of the outstanding objection and rejection and allowance of claims 1, 3-12, and 15-18 is respectfully requested.

Respectfully submitted,

  
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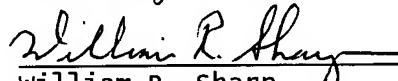
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